IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.258 of 2006
in
S.A. st No.l0l65 of 2005

Bhau R Agarkar and ors.. applicants
vs
Shantaram P Agarkar and ors.respondents

Mr A.A.Garge for applicants

CORAM; A.M.KHANWILKAR J.

DATED l7.2.2006

P.C.

l. The explanation offered in this application is unacceptable. It is seen from the order dated l3.l.2006 that the application was called out on three different occasions. None of those occasions any advocate appeared to inform the court that the advocate on record was in personal difficulty. The advocate on record for the applicants states that he had instructed his colleague to request the court to adjourn the matter. As none appeared inspite of the matter was called at three different occasions, same was dismissed for non prosecution. The explanation now offered in this application as mentioned earlier is unacceptable.

2. Even though sufficient cause is not made out in this application,as the litigant should not suffer for the mistake of the advocate, this application is allowed in terms of prayer clause (a) on condition that the advocate on record personally shall pay the cost quantified at Rs.750 to the High Court Legal Services Authority within a period of one week from today, failing which the office to proceed on the assumption that the application is dismissed for non prosecution without reference to court. If the cost is paid in time the appeal to be processed and listed as per its turn.